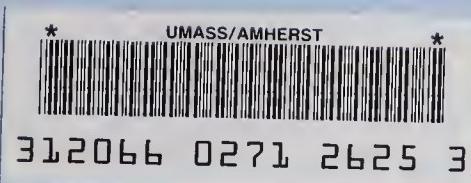


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Report and Recommendations

*Senate Special Committee on
Primary Enforcement of the
Safety Belt Law
Thursday, May 4, 2000*

Sen. James P. Jajuga, Chair

Sen. Brian P. Lees

Sen. Robert A. Bernstein

Sen. Richard T. Moore



The Commonwealth of Massachusetts
Senate
State House • Boston

May 4, 2000

The Honorable Thomas F. Birmingham
President, Massachusetts State Senate
Room 332
Boston, MA 02133

Dear President Birmingham:

As the Chairman and Members of the Senate Special Committee on Primary Enforcement of the Safety Belt Law established by Senate Order No. 2035, we are transmitting the attached Report and Recommendations for the Senate's consideration. This document outlines the history, current legislative initiatives and statistical and anecdotal information received by the Senate Special Committee.

It is the unanimous recommendation of the Senate Special Committee that the Senate should vote to substitute Senate No. 1116, An Act Relative to the Enforcement of Seat Belt Laws, for the June 16, 1999 adverse report by the Joint Committee on Public Safety.

Sincerely,

A handwritten signature of James P. Jajuga.

JAMES P. JAJUGA
Senate Chair
Joint Committee on Public Safety

A handwritten signature of Brian P. Lees.

BRIAN P. LEES
Minority Leader

A handwritten signature of Robert A. Bernstein.

ROBERT A. BERNSTEIN
Senate Chair
Joint Committee on Insurance

A handwritten signature of Richard T. Moore.

RICHARD T. MOORE
Senate Chair
Joint Committee on Health Care

HISTORY

The issue of requiring Massachusetts motorists to wear a safety belt when driving has been a contentious one for over fifteen years. The most recent legislative effort to make safety belt usage a “primary enforcement” offense is the third major legislative initiative since 1985.

The first safety belt law was approved by the Legislature and signed by Governor Michael S. Dukakis in October 1985. This law required all drivers and passengers to wear properly adjusted and fastened safety belts while traveling in motor vehicles on public ways. Exemptions were provided for passengers under five years of age (who were covered by another law); passengers in vehicles where all safety belts are being used by others; passengers in buses; drivers and passengers in vehicles where safety belts weren’t originally installed, or passengers who are certified by a physician to be physically unable to wear safety belts. The law also exempted police officers, rural mail carriers, or drivers or passengers in vehicles that stop frequently and travel at speeds not exceeding 15 miles per hour between stops.

Under the provisions of this law, drivers or passengers sixteen years or older who did not wear safety belts were subject to a \$15.00 fine. The driver of the vehicle was also subject to a \$15.00 fine for each passenger under sixteen who did not wear a safety belt. These safety belt violations would not result in a surcharge on motor vehicle insurance premiums. This safety belt law would only be enforced if the driver was stopped for a violation of another motor vehicle law.

Opponents of this first mandatory safety belt legislation were successful in placing the issue before the voters on the November 1986 ballot. The law was overturned by a vote of 769,602 in favor (43%) to 892,580 opposed (50%).

Eight years later the Legislature again approved a mandatory safety belt law, this time over the veto of Governor William F. Weld, in January 1994. The Joint Committee on Public Safety drafted the law to apply to persons driving or riding in private passenger motor vehicles or driving in vanpool vehicles or trucks under 18,000 pounds. The law also included exemptions similar to the ones outlined above in the 1985 law.

The new law also provided for “secondary enforcement” of the safety belt violation only when a driver has been stopped for a motor vehicle violation or some other offense. A non-surchargeable \$25.00 fine would be charged for violation of the law. The law also required the Registry of Motor Vehicles to require police officers, when reporting automobile accidents, to record whether safety belts were used. It also directed the Governor’s Highway Safety Bureau to conduct a public information and education program on motor vehicle occupant protection, and to evaluate and report to the Legislature, by June 1, 1995, on the effectiveness and degree of compliance with the law, and to conduct annual surveys of safety belt use.

This second attempt at putting a safety belt law on the books was placed before the voters on the November 1994 ballot. Unlike the 1986 referendum, voters in 1994 approved the safety belt law, with 1,240,271 (55%) in favor and 844,755 (37%) opposed.



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CURRENT LEGISLATIVE INITIATIVES

The 1999-2000 session of the Legislature has witnessed two efforts to strengthen the Massachusetts safety belt law by changing its enforcement from "secondary" (requiring another motor vehicle offense to have taken place) to "primary" enforcement, in which case police officers can cite the driver and/or passengers in a motor vehicle solely for not wearing a safety belt.

Senate No. 1116, which was filed by Senator Brian P. Lees, would amend Chapter 90, Section 13A (the current safety belt law) by removing the "secondary enforcement" prohibition. House No. 4841, which was filed by Governor A. Paul Cellucci and Lieutenant Governor Jane M. Swift, would change Chapter 90, Section 13A to provide for "primary enforcement" of the safety belt law for drivers and passenger age 18 or younger.

Senate No. 1116 was heard before the Joint Committee on Public Safety on March 31, 1999. On June 16, 1999 the Committee recommended that the bill ought not to pass. On October 28, 1999, after a series of discussions between the Senate Chair of the Joint Committee on Public Safety, Senator Jajuga, and the Senate Minority Leader, Senator Lees, the Senate voted to adopt Senate No. 2035, which established a special committee of the Senate to study the question of primary enforcement of the safety belt law. On November 3, 1999, Senate President Thomas F. Birmingham appointed four Senators to serve on the Committee:

Senator James P. Jajuga, Senate Chair, Joint Committee on Public Safety (Chair)

Senator Brian P. Lees, Senate Minority Leader

Senator Robert A. Bernstein, Senate Chair, Joint Committee on Insurance

Senator Richard T. Moore, Senate Chair, Joint Committee on Health Care

The Special Committee decided to hold three public hearings to gather testimony on the issue of primary enforcement of the safety belt law. These hearings were held on Friday, March 24, 2000 at the Springfield Technical Community College in Springfield, on Monday, March 27, 2000 at the State House in Boston, and on Wednesday, March 29, 2000 at Worcester City Hall in Worcester. 125 invited guests and members of the general public attended the three hearings, with forty (40) testifying. Thirty-one spoke in favor of strengthening the safety belt law, with nine in opposition.

Supporters of strengthening the safety belt law included: Representative Reed V. Hillman; Registrar of Motor Vehicles Daniel Grabauskas; Easthampton Police Chief Robert Redfern, President of the New England Association of Police Chiefs; West Springfield Police Chief Thomas Burke, President of the Western Massachusetts Chiefs Association and the Massachusetts Police Association; State Police Major Steve Leary; Longmeadow Police Officer Michael Kirby, President of the Massachusetts Safety Officers League; George Luciano, Regional Director, National Highway Traffic Safety Administration; Professor Ralph Hingson, Boston University School of Public Health; Dr. Mark Perlmutter, Chief of Emergency Medicine at Saint Elizabeth's Hospital; David Kelly, National Safety Council; Inta Hall, Massachusetts Brain Injury Association; Dr. Henry Greene, Executive Vice President, Massachusetts Medical Society; Tim Cooney, Executive Director, Central Massachusetts Safety Council; Barbara Harrington, Mothers Against Drunk Driving; Charlton Police Chief James Pervier; Art Kinsman, American Automobile Association; and Dr. Mitchell Clionsky.

Opponents of strengthening the safety belt law included: John Carr and Ivan Sever of the National Motorists Association and Ronald Madnick of the American Civil Liberties Union.

STATISTICAL AND ANECDOTAL EVIDENCE

At the present time, Massachusetts – with a secondary enforcement law – is ranked 46th among the 50 states in safety belt usage. Studies of safety belt usage set the percentage of drivers and passenger who buckle up at only 52%, compared to a national average of nearly 70%.

Evidence presented to the Senate Special Committee shows that states which have adopted primary enforcement laws average 79% safety belt compliance. This is 17% higher than compliance in those states with secondary enforcement laws – at a 62% average compliance rate.

Primary safety belt laws now cover approximately 52% of the population of the United States in 17 states, as well as the District of Columbia, Puerto Rico and a number of American territories. In the past year Alabama, Michigan and New Jersey all passed primary enforcement laws.

Massachusetts has actually experienced a *decrease* in safety belt usage in 1997 and 1998. It is estimated that at least 2 million Massachusetts drivers and passengers do not buckle up on a regular basis.

How do these statistics translate into human stories? Over the past four years, nearly 350 young people have been killed on Massachusetts roads. Fatal crashes involving people aged 16-24 increased 25% in Massachusetts from 1995 to 1998, while the rest of the country experienced a 2% *decrease*.

Studies show that a person wearing a safety belt is 50% more likely to survive a crash than someone who is not wearing one. They also show that children are significantly more likely to buckle up if their parents do so – when a driver is buckled, children are buckled 87% of the time, as opposed to 24% of the time when their parents do not wear a safety belt.

If Massachusetts adopts a primary enforcement law, it is estimated that an additional 680,000 motorists would buckle up. This would result in 25-30 fewer deaths and 3,000-4,000 fewer injuries, and would save the Commonwealth \$85 million in costs relating to medical care and emergency treatment, vocational rehabilitation, lost productivity, insurance costs and workplace and legal costs.

In addition, Massachusetts has failed to qualify for any of the \$52 million awarded to 40 other states by the federal government for increased safety belt use, and will probably be ineligible for \$92 million in additional funding in the coming year.

The reality is that, despite increased enforcement efforts by the State and local police, safety belt use has declined in Massachusetts. Only a primary enforcement safety belt law will raise the level of belt usage in Massachusetts.

There were arguments made against primary enforcement, and having a mandatory safety belt law in general. They revolved around issues of personal freedom, concerns with police enforcement of such a law, and situations where the wearing of a safety belt could conceivably cause injury or death. None of these arguments weighed significantly against the body of evidence showing better compliance, and lower death and injury rates, in states with primary enforcement. The public has shown strong support for a mandatory safety belt law since the 55-37% voter support in the 1994 referendum.

There was no evidence presented to support the contention that police officers would use a primary enforcement law to harass motorists, particularly young people and minorities. In fact, safety belt usage in both communities is lower than the average, and leaders in the minority communities across the country have been among the strongest advocates for strengthening safety belt laws.

Equally lacking was any data to show that accidents where safety belt usage was a negative factor are significant. Stories about fiery crashes and cars submerged under water make good newspaper headlines, but are rarely reflected in the stories told by police officers about actual crash scenes. As one officer noted at a hearing: "I have never cut a dead person in a car out of a seat belt."

CONCLUSION

After hearing the testimony and reviewing the best data available on safety belts and their role in protecting motorists, the Senate Special Committee on Primary Enforcement of the Safety Belt Law recommends that the full Senate support **Senate No. 1116, An Act Relative to Enforcement of the Seat Belt Law**, with an amendment calling for the Executive Office of Public Safety (EOPS) to study the performance of the strengthened law over a three-year period. The Senate Special Committee also encourages the House of Representatives and Governor Cellucci to give their support to this initiative.

The Senate Special Committee on Primary Enforcement of the Safety Belt Law wishes to thank the following Senate staff members for their invaluable assistance in supporting the work of the Senate Committee: Chris Ciulla, Brian Cormoyer, Brian Dolaber, Chris Philbin and Seth Stratton.

In addition, the Senate Special Committee on Primary Enforcement of the Safety Belt Law wishes to offer particular thanks to Paul Fahey, Legislative Director to Sen. Jajuga, for writing this report and recommendations.

